IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 4977 OF 2005

The State of Maharashtra.... ... Applicant.

Versus

Ramakant Chandrakant Rathawad.... Respondent.

Mrs. M.M.Deshmukh, APP for the Applicant/State.
None for the Respondent.

CORAM : D. B. BHOSALE, J.

DATED : 3RD JULY, 2006.

P.C.:

Heard learned APP for the Applicant / State.

2. This is an application seeking leave to appeal under Section 378(3) of the Code of Criminal Procedure against the judgment and order dated 28th February, 2005 passed by the JMFC, Chiplun in Regular Criminal Case No. 141 of 2004 acquitting the Respondent / Accused of the offence punishable under Section 379 of the Indian Penal Code.

3. The case of the Applicant is based on

circumstantial evidence. The F.I.R. was lodged only on suspicion. The cash box (Dakshina box) in a temple containing cash of Rs.357/- was allegedly stolen by the accused. The doubt was expressed only on the basis of the fact that immediately after the incident the accused repaid the amount borrowed by him from some person. That was found to be far fetched suspicion. The recovery of the cash box at the instance of the accused had also been not proved beyond reasonable doubt. The panch has not supported the prosecution in so far as recovery of the cash box is concerned. According to the police the cash box was produced by the accused from the bushes whereas the panch witness P.W.2 stated that the cash box was found in front of the goddess. Considering the reasons recorded by the courts below on appreciation of the evidence on record, the impugned judgment cannot be said to be perverse and unreasonable. The view taken by the trial court is reasonably possible view. Merely because the other view is also possible on the basis of the evidence on record, that by itself is not sufficient to convert the order of acquittal into conviction. In the circumstances, the application for leave to appeal is rejected.

Sd/-

(D. B. BHOSALE, J.)